

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Shirley Landers,)	
)	
)	Civil Action No.6:15-1533-MGL-KFM
Plaintiff,)	
)	<u>REPORT OF MAGISTRATE JUDGE</u>
vs.)	
)	
Laurens County Sheriff's Office;)	
Lieutenant M.R. Crain, Jr.;County of)	
Laurens; Sheriff Rickey Chastain;)	
Sergeant Robert E. Timmons;)	
and Sergeant Galazriza,)	
)	
Defendants.)	
)	

The plaintiff Shirley Lander ("the plaintiff"), who is represented by counsel, brought this action alleging violations of her constitutional rights pursuant to 42 U.S.C. §§ 1983 and 1988. Under Local Rule 73.02(B)(2), pretrial proceedings in this action have been referred to the undersigned United States Magistrate Judge.

In an order (doc. 36) filed in this case on February 29, 2016, the undersigned apprised the plaintiff that the docket in this matter showed that defendant Sergeant Galariza had not been served and that the time for service had passed under Rule 4(m) of the Federal Rules of Civil Procedure. The Court instructed the plaintiff to inform the Court by March 7, 2016, why defendant Sergeant Galazriza should not be dismissed without prejudice for failure of service. The plaintiff has not responded to this Court's February 29, 2016 order.

Rule 4(m) of the Federal Rules of Civil Procedure provides that unless a defendant is served within 120 days after the complaint is filed, this court is required to dismiss an action without prejudice as to that particular defendant. See Fed. R. Civ. P. 4(m). Because more than 120 days have passed since the filing of the plaintiff's complaint, and the plaintiff has not informed the court why Sergeant Galazriza should not be dismissed

for failure of service, the undersigned recommends that defendant Sergeant Galazriza be dismissed without prejudice for failure of service. Plaintiff's attention is directed to the important notice on the next page.

March 14, 2016
Greenville, South Carolina

s/ Kevin F. McDonald
United States Magistrate Judge

The plaintiff's attention is directed to the important WARNING on the following page.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
300 East Washington Street
Greenville, South Carolina 29601

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).